

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CAROLYN L. SCOTT,

Plaintiff,

:

Case No. 3:15-cv-073

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

O'CHARLEY'S RESTAURANT, INC.,

Defendant.

:

ORDER; REPORT AND RECOMMENDATIONS

This case is before the Court on Defendant's Motion to Dismiss or, in the alternative, To Compel Arbitration and Stay Proceedings (Doc. No. 6). Although Plaintiff filed this case *pro se*, she has obtained the services of counsel who, on her behalf, has conceded the existence of a compulsory arbitration agreement signed as a pre-condition to her employment with Defendant (Response, Doc. No. 8, PageID 91). Although Plaintiff denies the exchange of fair consideration for her agreement, she agrees to a stay of these proceedings to allow arbitration to go forward.

A motion to stay proceedings to permit arbitration is a non-dispositive pre-trial motion on which a Magistrate Judge has authority to act. Accordingly, the Motion to Stay Proceedings pending arbitration is GRANTED. The parties shall proceed forthwith to arbitrate this matter in accordance with their agreement and shall keep the Court currently advised by filed status reports of the status of the arbitration not later than September 1, 2015, and quarterly thereafter.

A motion to dismiss is a dispositive motion on which a Magistrate Judge may only make a recommendation to the assigned District Judge. Accordingly, it is hereby RECOMMENDED that Defendant's Motion to Dismiss be DENIED without prejudice to its renewal if the arbitration does not resolve this matter.

June 6, 2015.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).